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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Amendment of Section 73.202(b))
Table of Allotments) MM Docket No. 95-76
FM Broadcast Stations) RM-8611
(Homestead and North Miami)
Beach, Florida))

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To: Chief, Allocations Branch

REPLY COMMENTS OF NEW AGE BROADCASTING, INC.

New Age Broadcasting, Inc. ("New Age"), licensee of Radio Station WXDJ(FM), Channel 239C1, Homestead, Florida, by its attorneys, submits herewith the following reply comments in the above-captioned matter.

New Age, the original petitioner, submitted opening comments on July 31, 1995 in response to the factual and policy questions outlined in the Commission's Notice of Proposed Rulemaking. As best New Age can determine, no other party has submitted comments in this proceeding, either to question the proposed reallocation or to advance a counterproposal. Thus, New Age submits that the record stands unchallenged that reallocation of the station to North Miami Beach will serve the public interest.

To briefly recap, New Age demonstrated in its comments that the public interest would be served by providing the City of North Miami Beach, a thriving and independent municipality, with its first local transmission service. New Age illustrated that the proposed reallocation is fully consistent with Commission precedent, which recognizes that the award of a preference for first local transmission service is

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appropriate in situations where the existing and proposed communities are both located in the same urbanized area. Here, of course, both Homestead, the existing community of license, and North Miami Beach, the proposed community, are located in the Miami-Hialeah Urbanized Area. New Age also demonstrated that reallocation would furnish an alternative radio service to a significantly larger audience while having only a de minimis impact on any existing listeners.¹

Since New Age filed its comments, the Commission's Allocations Branch has released another decision that, we believe, further supports grant of the proposed reallocation. In Earle, Pocahontas, and Wilson, Arkansas, and Como and New Albany, Mississippi, MM Docket No. 93-259, DA 95-1690 (Allocations Branch, rel. Aug. 3, 1995), the Allocations Branch awarded a first local preference and found that reallocation served the public interest where the existing community of license would retain local transmission service even though the reallocation would result in a loss area of 46,606 people. Commission concerns about the loss area were mitigated, however, by the fact that 85% of the population would remain served by at least five full-time aural reception services and no white or grey areas would be created. The Allocations Branch ultimately concluded that, because the proposed reallocation "triggers a higher

¹ Indeed, New Age believes that the potential disruption to existing service would be significantly less than actually described in the comments. The comments compared New Age's licensed facilities to the proposed allocation. As a result of the destruction of its antenna tower during Hurricane Andrew, however, New Age continues to operate WXDJ pursuant to special temporary authorization at facilities at variance from those authorized. Thus, the comments effectively overstate the loss of existing service likely to result from the reallocation.

allotment priority than does the existing arrangement, the proposal should be favored. Specifically, allotting the first local service . . . is more important than retaining a third local service" Id. at ¶ 7.

Here, the case for reallocation is even more compelling. Reallocation of the channel to North Miami Beach would result in a loss area containing approximately 34,000 people. Moreover, 96% of the population within the loss area would continue to receive five or more radio signals and no white or grey areas would be created. As in Earle, the reallocation should be favored because it would result in the allotment of a first local service to North Miami Beach.

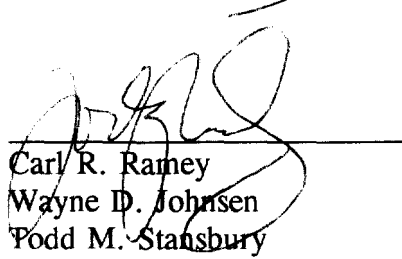
Finally, New Age respectfully urges the Commission to accord expedited consideration to this rulemaking. As noted, New Age is currently operating WXDJ at variance pursuant to special temporary authority. Prompt action on the instant request will allow New Age to more quickly provide a permanent service to its listeners. Accordingly, based on this specific exigency and the overwhelmingly favorable record

of this proceeding, New Age once again urgently requests that the Commission grant the proposed reallocation and modify the license of WXDJ to specify operation on Channel 239C2, North Miami Beach, Florida, in lieu of Channel 239C1, Homestead, Florida.²

Respectfully submitted,

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² In this regard, it should also be noted that the Commission recently granted New Age a construction permit to relocate from its presently authorized site and to operate as a Class C2 station. See FCC File No. BPH-9401071A.